

Translation

PATENT COOPERATION TREATY

PCT

INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY
(Chapter II of the Patent Cooperation Treaty)

(PCT Article 36 and Rule 70)

Applicant's or agent's file reference CI0111PCT	FOR FURTHER ACTION See Form PCT/IPEA/416	
International application No. PCT/EP2004/008265	International filing date (day/month/year) 23.07.2004	Priority date (day/month/year) 23.07.2003
International Patent Classification (IPC) or national classification and IPC B26D5/02, B26D7/26		
Applicant CFS KEMPTEN GMBH		

1. This report is the international preliminary examination report, established by this International Preliminary Examining Authority under Article 35 and transmitted to the applicant according to Article 36.

2. This REPORT consists of a total of 5 sheets, including this cover sheet.

3. This report is also accompanied by ANNEXES, comprising:

a. ☒ (sent to the applicant and to the International Bureau) a total of 5 sheets, as follows:

☒ sheets of the description, claims and/or drawings which have been amended and are the basis for this report and/or sheets containing rectifications authorized by this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions).

☐ sheets which supersede earlier sheets, but which this Authority considers contain an amendment that goes beyond the disclosure in the international application as filed, as indicated in item 4 of Box No. I and the Supplemental Box.

b. ☐ (sent to the International Bureau only) a total of (indicate type and number of electronic carrier(s)) _____, containing a sequence listing and/or tables related thereto, in computer readable form only, as indicated in the Supplemental Box Relating to Sequence Listing (see Section 802 of the Administrative Instructions).

4. This report contains indications relating to the following items:

☒ Box No. I Basis of the report

☐ Box No. II Priority

☐ Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability

☐ Box No. IV Lack of unity of invention

☒ Box No. V Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

☐ Box No. VI Certain documents cited

☐ Box No. VII Certain defects in the international application

☐ Box No. VIII Certain observations on the international application

Date of submission of the demand	Date of completion of this report
Name and mailing address of the IPEA/EP	Authorized officer
Facsimile No.	Telephone No.

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International application No.

PCT/EP2004/008265

Box No. I

Basis of the report

1. With regard to the language, this report is based on the international application in the language in which it was filed, unless otherwise indicated under this item.
- ☐ This report is based on translations from the original language into the following language _____ which is the language of a translation furnished for the purposes of:
- ☐ international search (Rule 12.3 and 23.1(b))
- ☐ publication of the international application (Rule 12.4)
- ☐ international preliminary examination (Rule 55.2 and/or 55.3)
2. With regard to the elements of the international application, this report is based on *(replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report)*:
- ☐ the international application as originally filed/furnished
- ☒ the description:
- pages 1-20 _____ as originally filed/furnished
- pages* _____ received by this Authority on _____
- pages* _____ received by this Authority on _____
- ☒ the claims:
- nos. _____ as originally filed/furnished
- nos.* _____ as amended (together with any statement) under Article 19
- nos.* 1-35 _____ received by this Authority on 23.06.2005 with
- nos.* _____ received by this Authority on telefax
- ☒ the drawings:
- sheets 1/9-9/9 _____ as originally filed/furnished
- sheets* _____ received by this Authority on _____
- sheets* _____ received by this Authority on _____
- ☐ a sequence listing and/or any related table(s) – see Supplemental Box Relating to Sequence Listing.
3. ☒ The amendments have resulted in the cancellation of:
- ☐ the description, pages _____
- ☒ the claims, nos. 36-40 _____
- ☐ the drawings, sheets/figs _____
- ☐ the sequence listing (*specify*): _____
- ☐ any table(s) related to sequence listing (*specify*): _____
4. ☐ This report has been established as if (some of) the amendments annexed to this report and listed below had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).
- ☐ the description, pages _____
- ☐ the claims, nos. _____
- ☐ the drawings, sheets/figs _____
- ☐ the sequence listing (*specify*): _____
- ☐ any table(s) related to sequence listing (*specify*): _____

* If item 4 applies, some or all of those sheets may be marked "superseded."

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International application No.

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Box No. V Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. Statement

Novelty (N)	Claims	1-35	YES
	Claims		NO
Inventive step (IS)	Claims	1-35	YES
	Claims		NO
Industrial applicability (IA)	Claims	1-35	YES
	Claims		NO

2. Citations and explanations (Rule 70.7)

1 Although claims 1, 8, 9, 10, 13, 17, 21, 30 and 32 are drafted as separate independent claims, they seem in fact to relate to the same subject matter, the only apparent difference being in the definition of the subject matter for which protection is sought and in the terminology used for the features of the substantive matter. The claims are therefore not concise and fail to meet the requirement of PCT Article 6.

1.1 This report makes reference to the following documents:

D1: WO 03/028963 A

D4: US-A-6 123 002

2 Although claim 1 is not clear (see point 1 above), it seems largely to contain the essential features of the invention.

D1 is considered to be the prior art closest to the subject matter of claim 1. D1 discloses (the references in parentheses are to D1):

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Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

a slicing device for slicing food products, said device having a rotating cutting blade (10) that is mounted such that it can be displaced parallel to its rotational axis.

Thus the subject matter of claim 1 differs from this prior art in that it has a counterweight that can be displaced in the opposite direction of the cutting blade.

The subject matter of claim 1 is therefore novel (PCT Article 33(2)).

- 2.1 The problem to be solved by the present invention can therefore be regarded as that of preventing the cutting device from vibrating.

The solution to this problem as proposed in claim 1 of the present application involves an inventive step for the following reasons (PCT Article 33(3)):

It is known in the field of web material cutting to balance a rotating cutting blade, which is mounted such that it can be displaced parallel to its rotational axis, by means of a counterweight that can be displaced in the opposite direction of the cutting blade (see D4: column 8, lines 40-50). In a cutting device according to D4, however, the conveying elements and the cutting elements are designed to cut web material. Since this material

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has a different consistency than food product blocks, a cutting device according to D4 cannot be used for cutting food product blocks, and the prior art does not contain anything that would suggest that a device according to D4 could be made suitable for cutting food products. Furthermore, the solution in this known device (D4) is for balancing a blade in motion. It is therefore not obvious to apply this solution to the problem of moving the blade without the food product being cut because a blade moved such that it makes these empty cuts has to be operated in an entirely different way in comparison with D4.

2.2 Claim 13 relates to the use of a device according to claim 1. Thus, for corresponding reasons (see points 2 and 2.1 above), the subject matter of method claim 13 also meets the PCT requirements for novelty and inventive step (PCT Article 33(2) and 33(3)).

3 For the purpose of this report, all independent and dependent claims were regarded as containing all essential features of claim 1 or 13 and, under these conditions, meet the PCT requirements for novelty and inventive step.